REMARKS

Status of the Claims

The Office Action mailed July 24, 2009 noted that claims 1-11 were pending and rejected all claims. Claims 1-11 are amended. No claims are cancelled. New claim 12 is added. No new matter is believed to be presented.

It is respectfully submitted that claims 1-12 are pending and under consideration.

Response to Constructive Election/Restriction

On page 2, Office Action constructively elected claims 1-10 and withdrew claim 11 from consideration as being directed to an invention that is independent or distinct from the originally claimed invention. Applicants have filed a Petition to Withdraw the Restriction of claim 11.

Rejection under 35 U.S.C. § 102

The Office Action, on page 3, rejected claims 1-5 and 7-10 under 35 U.S.C. § 102(e) as being anticipated by Yang. However, the Office Action rejected claim 6 as well. Clarification is requested in the next Office Action and this rejection is respectfully traversed below.

The distinctive features of the claims solve a problem not recognized much less solved by Yang. In particular, it can occur that one is not experienced in systems operations management. In such a situation, traditionally, a system manager was required to select a method to manage the system based on his or her own possibly novice judgment from a vast list of operation management methods. This problem is solved by providing a system manager with a list of methods to manage the system based on inventory of a system including its software and hardware and providing also providing the system manager with statistics including previous usage and usefulness of the methods. The solution recited by the claims is discussed in more detail below.

Yang discusses a mechanism for managing contracts which can be used for software licensing contracts including software contacts based on a fulfillment basis. A customer is entitled to a certain quota of licensing software resources that the customer can consume. Yang merely discusses a contract management mechanism, and storing information about software licensing contracts in a database, each contract having a quota of resources associated therewith which may be consumed under the contract. There may also be rules or terms to govern the manner in which the contract is fulfilled. (See Yang, paragraphs [0006] and [0008]).

Independent claim 1, for example, is amended to clarify distinguishing features not discussed by newly cited Yang. In particular, claim 1 is amended to recite "operation management method of a computer to be managed" to clarify and distinguish claim 1 from Yang. Yang merely discusses consuming resources of a software licensing contract having a quota to be consumed under the contract and is entirely unrelated to claim 1.

Nothing cited or found in Yang discusses at least "operations management methods of the computer to be managed corresponding to the specified inventory and creating a method list detailing operations management methods suited to the inventory specified by said inventory information," and "upon receiving selection information indicating the selection by the manager of at least one operations management method of the computer to be managed from said created method list, retrieving from said database, the operations management method specified by said selection information" recited in claim 1. The Office Action noted "list terms of a license" and cited to paragraphs [0006]-[0010], [0025]-[0029], [0046] and [0091], but this does not disclose "creating a method list" as recited in claim 1. Yang merely discusses an entirely unrelated method of managing contracts involving resources such as goods, products, or services as discussed above and storing the contracts in a database. Furthermore, the contract management mechanism 130 interacts with the customer to manage one of the contracts discussed in Yang. The customer can browse through software, obtain quotes and obtain licenses which have terms of that license.

Thus Yang cannot disclose "upon receiving selection information indicating the selection by the manager of at least one operations management method of the computer to be managed from said created method list, retrieving from said database, the operations management method specified by said selection information." In other words, as a non-limiting example to clarify the distinguishing features of the claims not discussed in Yang, an operations management method list of the computer to be managed is specified and sent to a manager based on hardware and software inventory of the computer to be managed. Yang does not disclose all features of claim 1 and claim 1 patentably distinguishes over Yang. "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).

Independent claim 5 patentably distinguishes over Yang for reasons similar to those discussed above because Yang does not discuss "specifying an inventory based upon one of hardware and software of a computer to be managed, retrieving from a database, operations

management methods of the computer to be managed corresponding to the specified inventory and acquiring operations management methods of the computer to be managed suited to the inventory specified by said inventory information."

Independent claim 7 patentably distinguishes over Yang for reasons similar to those discussed above because Yang does not discuss "receiving inventory information specifying an inventory based upon one of hardware and software of a computer to be managed, retrieving methods of the computer to be managed from said database and creating a method list detailing operations management methods of the computer to be managed suited to the inventory specified by said inventory information" and "method retrieving means for, upon receiving selection information indicating the selection by the manager of at least one operations management method of the computer to be managed from said method list, retrieving from said database the operations management method of the computer to be managed specified by said selection information."

Independent claim 8 patentably distinguishes over Yang for reasons similar to those discussed above because Yang does not discuss "method retrieving means for, upon receiving inventory information specifying an inventory based upon one of hardware and software of a computer to be managed, retrieving from said database, operations management methods of the computer to the managed suited to the inventory specified by said inventory information."

Independent claim 9 patentably distinguishes over Yang for reasons similar to those discussed above because Yang does not discuss "retrieving from a database, storing operations management methods of the computer to be managed corresponding to the specified inventory and creating a method list detailing operations management methods of the computer to be managed suited to the inventory specified by said inventory information" and "receiving selection information indicating the selection by the manager of at least one operations management method of the computer to be managed from said method list, retrieving from said database, the operations management method of the computer to be managed specified by said selection information."

Independent claim 10 patentably distinguishes over Yang for reasons similar to those discussed above because Yang does not discuss "receiving inventory information specifying an inventory based upon one of hardware and software of a computer to be managed, retrieving from a database, storing operations management methods of the computer to be managed corresponding to the specified inventory and acquiring a method list detailing operations management methods of the computer to be managed suited to the inventory specified by said

inventory information."

Claim 11, improperly withdrawn from consideration, patentably distinguishes over Yang for reasons similar to those discussed above because Yang does not discuss "providing the created method lists to a manager of the computer network system for a selection of one method for each computer to be managed, wherein the manager is provided with a method rating based upon a number of computers operating under the corresponding method, overall operation time of the corresponding method among the plurality of computers, and a number of applications of the corresponding method."

The dependent claims depend from the above-discussed independent claims and are not anticipated by Yang for the reasons discussed above. The dependent claims also recite additional features not discussed by Yang. For example, claim 2 recites "creating a method list retrieves from said database and creates a method list suited to the inventory specified by said difference." In particular, Yang discusses storing a list of available software for licensing in a database and does not discuss storing "the inventory" of software and hardware in a computer and does not discuss creating "a method list suited to the inventory specified by said difference." In other words, a method list of managing a system having a particular inventory of software and hardware is provided taking into account a change in inventory of software and hardware. Yang does not discuss this unique feature in dependent claim 2. Nothing in Yang discusses the distinctive features of claim 3 as well including "appropriately storing in a database usage frequencies of the operations management methods of the computer to be managed applied to said computer to be managed." Yang does not discuss storing usage frequencies of operation management methods of the computer to be managed, and only discussing storing computer software license consumption. Thus, Yang also does not discuss claim 3. It is submitted that the dependent claims are independently patentable over the cited references.

New Claim 12

Claim 12 patentably distinguishes over Yang because nothing cited or found discusses at least "providing a list of computer management policies based on the software and hardware in the computer, the list sorted in descending order based on usage frequency of each policy in the list, responsive to a total number of references of each policy, total operating time of each policy and a total number of applications of each policy."

Summary

There being no further outstanding objections or rejections, it is submitted that the application is in condition for allowance. An early action to that effect is courteously solicited.
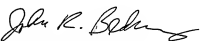
Finally, if there are any formal matters remaining after this response, the Examiner is requested to telephone the undersigned to attend to these matters.

If there are any additional fees associated with filing of this Amendment, please charge the same to our Deposit Account No. 19-3935.

Respectfully submitted,

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